IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2865 OF 2006

Shri Ramesh Karbhari Thakare ..... Petitioner
V/s
The Presiding Officer & Others. ..... Respondents.

Office Notes, Office Memoranda of Coram, appearances Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

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Mr.Mr.Vikas Shivarkar, Adv. for the petitioner.

Mr.K.M.Patil & R.M.Haridas for respondent No.3.

Mr.A.P.Vanarse, AGP for respondent Nos.7 to 9.

CORAM: A.P. DESHPANDE, J.

22.2.2007

PC:

This petition is directed against the judgment and order passed by the Presiding Officer, School Tribunal dismissing the appeal filed by the petitioner calling in question the legality and validity of the order of

termination issued by respondent-management.

It is undisputed that when the petitioner was appointed he was untrained teacher and could not have been appointed in a permanent vacancy. Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulations Act, 1977 read with rule 6 casts obligation on the school management to fill in permanent vacancy by appointing a duly qualified person who possesses the qualifications as required by Schedule `B' to the Rules. The petitioner was an untrained teacher. He was terminated with effect from 29.9.03 and he has acquired the eligibility qualification of B.Ed. at a later point of time i.e. 29.6.2004. The learned counsel appearing for the petitioner heavily relying upon the undertaking/assurance given in

certificate dated 22.7.2002 has submitted that the management had assured that after the petitioner completes B.Ed. he will be continued in service. Such an assurance is not in conformity with section 5 read with rule 6 of the Act and hence the Tribunal has held that the said assurance does not vest the petitioner with any legal right qua the post in question. Perused the order passed by the Tribunal. Same does not suffer from any illegality. It is settled position in law that temporary appointee who is not qualified to be appointed to a post cannot claim any right to the post. Hence no interference is called for. In the result writ petition is summarily dismissed.

14.2.07.